

Dr. James Carland, who is president and CEO of MICA, which is Arizona's largest medical liability insurer, wrote a letter to me recently to describe some of the results he has seen from medical liability laws implemented in Arizona, specifically from two statutes—one that reformed expert witness standards and another that imposed a requirement to inform the defendant, before trial, of expert witness testimony and to preview the substance of that testimony. Dr. Carland wrote that the enactment of these two statutes has “reduced meritless medical malpractice suits” in Arizona. Indeed, after their enactment, medical liability suits dropped by about 30 percent. That drop has been accompanied by a drop in medical liability premiums. Since 2006, MICA has reduced premiums and returned about \$90 million to its members in the form of policyholder dividends.

Another State that has had success with medical liability reform is Texas, which passed a series of measures in 2003, including limits on noneconomic damages and a higher burden-of-proof requirement for emergency room negligence. The number of doctors practicing in Texas has now skyrocketed, while costs have plummeted. It has been widely reported that since those reforms were implemented, medical licenses in Texas have increased by 18 percent and 7,000 new doctors have moved into the State.

To reduce costs for both physicians and patients, Senator CORNYN and I have introduced legislation that would achieve medical liability reform by combining what has worked best in our two States, Texas and Arizona. We have taken the Texas stacked cap model for noneconomic damages and coupled it with expert witness statutes proven to limit the filing of meritless lawsuits.

Republicans offered these kinds of liability reform amendments during the Finance Committee markup, but all of them were ruled out of order by the chairman of the committee. One of these amendments, recently scored by the Congressional Budget Office, would have saved the Federal Government \$54 billion in health care costs over the next 10 years. My colleague from Nevada, Senator ENSIGN, asked the Director of the CBO if we could expect a similar approximate reduction in cost in the private sector, since about half of all medical costs are paid for by government and the other half in the private sector. Dr. Elmendorf, the Director of the CBO, agreed that we could expect approximately the same additional amount of savings in the private sector. That would be well over \$100 billion.

Medical liability reform enjoys heavy support among our bosses—the American people. According to a new Manhattan Institute paper, 83 percent of Americans want to see it in any health care bill passed by the Congress. Despite this support and the concrete evi-

dence that it would lower health care costs for doctors, patients, and the government, none of the health care bills being written by congressional Democrats tackle medical liability reform. It makes no sense that in debates about bringing down cost, this commonsense measure is ignored by the majority party. If we are serious about making health care more affordable, we must have medical liability reform. We will work for the American people, not the trial lawyers.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARDIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

The Senator from Maryland is recognized.

Mr. CARDIN. I thank the Chair.

(The remarks of Mr. CARDIN pertaining to the introduction of S. 1816 are located in today's RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. CARDIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FISCAL POLICY

Mr. DORGAN. Mr. President, in recent weeks, and especially in more recent days, we have had a lot of discussions on the floor of the Senate by Members about the Federal budget deficit and about fiscal policy. It is a serious issue in my judgment, one to which we have to pay a lot of attention. But some of the discussion on the floor of the Senate has been wrapped in partisan wrapping. The suggestion is the fingers are all pointing to the new President—new because he has been in office only 10 months. Somehow this very deep fiscal policy hole, these very large and growing Federal budget deficits, should be laid at his feet.

The fact is, in my judgment, there is plenty of responsibility to go around on all parts. I am going to talk a little about that. This administration knows it. They have some responsibility. This Congress certainly has major responsibility. The past administration has significant responsibility.

The American people are a lot less interested in who wants to own up to that responsibility than they are about who is going to try to do something to fix our deficit problems. We cannot have deficits that are growing far out

into the future. We cannot continue to deliver a level of government the American people are unable or unwilling to pay for without very serious consequences to the American way of life. I want to talk just a bit about that.

First and foremost, the deficits are growing and have been very serious. It is not unusual that in the middle of the deepest recession since the Great Depression we would have growing Federal budget deficits. Why? Because more people are unemployed, out of work. More people need the kind of social services and the stabilizing payments that we do. When people are in trouble and we are in a recession, that increases the spending.

It is also the case that the amount of revenue we expected this year is down about \$400 billion because people are making less money, corporations are making less money, less is coming in in tax revenue. So it is not unusual, in the middle of the most significant economic trouble since the 1930s that we have higher spending, less revenue, and therefore deficits that are ratcheting up.

Deficits just by themselves would not necessarily be something that we would object to if the deficits purchase something of great value that was necessary at this moment. Ask this question and I expect the answer is self-evident. What if someone said: You need to spend \$1 trillion that you do not have, \$1 trillion of deficits right now, but if you do that, if you spend that \$1 trillion, you will cure cancer. Do you think anyone would say: No, that is not a smart thing to do. Of course we would do that, because it would promote dramatic dividends for a long time.

But regrettably that is not what this deficit is about. This is not about having done something of significant merit. This is largely a structural deficit in which we have an expenditure base that is growing, and a revenue base that has not kept up, and now it has been aggravated, especially in a very deep recession. When I see the folks on the other side of this aisle come to the Senate to talk about generational theft, and to point fingers at the administration, let me be quick to point out, there is a long history to how we got to where we are, a very long history that does not start at 1600 Pennsylvania Avenue in January of this year. Let me revisit a little bit of that history, if I might. I am not doing it to suggest that one side is all right and the other side is all wrong. I am doing it because there are people who come to the floor of the Senate seeming to act as if they were exploring the surface of Mars while all of this was going on. In fact, they were not. Many of them were here in this Chamber.

When President Clinton left office in the year 2000, we had a \$236 billion budget surplus. That was called the “unified surplus.” The actual “on-budget surplus” which does not count

the Social Security revenues—and I do not think you should count Social Security revenues—was \$86 billion. So when President Clinton left office that year, for the first time in decades we had a real budget surplus, and the expectation was that the on-budget surplus was going to grow to more than \$3 trillion in the coming 10 years. That was the expectation. And as all of us know, President Bush came to town. And George W. Bush said: My first priority is to do very large tax cuts for the American people.

I stood here on the floor of this Senate and said: You know what. Let's be a little conservative about this. What if something should happen and we do not have these surpluses? These are only estimates. They are not in our hands. They are only estimates. Why don't we be a bit careful?

The President said: No, we are not going to do that. And most of my colleagues—by the way, the majority of my colleagues—said: No, we are not going to do that. We are going to enact a piece of legislation that will substantially cut taxes, the majority of which went to upper income people in this country.

The benefits to the upper income people in this country—somewhere around 5 percent of the taxpayers—will total almost \$1 trillion over the 10 years. The households in the top 1 percent, with incomes over \$450,000 in 2008, will on average get a \$489,000 tax break over ten years. Think of that. You say: Those of you who are fortunate to earn nearly half a million dollars in this 10-year period, we are going to give you close to \$500,000, half a million dollars in tax breaks.

Should that have been a priority? I don't think so. I did not support that. But it was for the President and the majority of the Congress. So the Congress cut the revenue very substantially to benefit the highest income Americans. Then what happened? Well, what happened was we discovered very quickly we were in a recession. In 2001, when President George W. Bush took over, at the end of March, we discovered we had a struggling economy. Then on 9/11 of that year we were attacked by terrorists, and very quickly we were in a war in Afghanistan, and soon thereafter in a war in Iraq.

The President said: Despite the fact that we now are in recession, and had a terrorist attack, and two wars, we are not going to pay for the cost of these wars. We are going to send emergency supplemental requests that are not paid for, and we expect you to support our soldiers in the field.

So nearly \$1 trillion was spent on the two wars in the last 9 years. And not a penny of it was paid for. Right onto the debt. Then in the year 2008, our economy fell off a cliff in October. And not surprisingly, having built up a substantial amount of deficits over this period of time fighting two wars, having had a recession, without paying for any of it, having built up these unbelievable defi-

cits, when we fell off the cliff last October into a very significant recession, very deep hole, the Federal budget deficit skyrocketed.

Let me put up a chart of Federal budget deficits. I do this because we are on an unsustainable path. The President knows that. In fact, today the Wall Street Journal talks about the President's plan to tackle the Federal budget deficit. The President understands and I understand, in the middle of a deep recession, as we have got our foot on the accelerator to try to get this economy moving again, you cannot decide to take a lot of money out of the economy. So you could not at this moment decide: You know what. We are just going to collapse all of this red ink immediately. It would be devastating and throw this country into a deep economic tailspin. I understand that.

But here is what we face. We face growing deficits fighting wars. When the President took over, had he done nothing in fiscal year 2009, we would have had a budget deficit, it is estimated, of about \$1.3 trillion.

Last fall it was the Troubled Asset Relief Fund, \$700 billion. Then when he took over, this President wanted an economic recovery fund. I supported that because I believed it was better to pump some money into the economy rather than risk the economy going into a much deeper economic hole.

But all of that, in my judgment, has put us on an unsustainable path. You see, out in 10 years, this is not sustainable. The President knows that. I have talked to the President personally about it. As I indicated, a story today talks about the President's determination, as the economy strengthens in the coming months, next year to turn to this issue and deal with it and solve it. We do not have a choice.

But what brings me to the floor is this discussion by some of our colleagues to say: Aha. Now we have got these big budget deficits. That belongs to the person in the White House. That is President Obama's fiscal policy. It is not. It just is not. This has a long history. It started when this country fought a war without paying for a penny of it, while at the same time enacting massive tax breaks primarily for the richest Americans.

By the way, it is the first time, I believe, in the history of this country that that has happened. And then steering this country into a circumstance where the previous administration hired regulators who were content to be willfully blind and say: You know what. I would like a job. I would like a salary. But count on me to be willfully blind. I will not regulate a thing.

As a result, we had unbelievable things happening in this country. Greed. Unbelievable things. I have given speech after speech about what happened with the subprime mortgage scandal, the Wall Street credit default swaps, CDOs, you name it.

The result was this economy was taken right into the ditch by a bunch of shysters who were making a lot of money. A lot of them left their firms with a lot of money and stuck this country with a big bill, and now we see today they are the ones getting the big bonuses.

By the way, the investment banks that are supposed to be lending money are not lending money. They are trading in securities, making money for themselves. Meanwhile, we have got a lot of small and medium businesses out there that are in desperate need of credit. It still has not all stopped. But the point is, to suggest somehow that this has all happened on the watch of a new President in his first 10 months is ridiculous. We all have a stake in this, and we all have responsibility for it. We are all going to have to start working on it together.

This morning in a meeting I quoted Ogden Nash, who had a little four-line poem about a guy who drinks and his wife who nagged him about it: She scolds because he drinks, she thinks. He drinks because she scolds, he thinks. Neither will admit what is really true, he is a drunk and she is a shrew.

Responsibility on both sides. Responsibility on both sides here for fiscal policy. We all have a stake in this. We all have a responsibility. The question is not having people come to the floor and point fingers at a new President who has been in office for just 10 months. The question is, who is going to come to the floor of the Senate and decide together—together—to try to pull this economy up and out of this desperate condition?

I think we are finally starting to see some improvement here. I understand that we do need to steer toward a fiscal policy that reconciles our revenues and expenditures. Yes, to do that we are going to have to cut some spending. We are. I understand that. I am prepared to do that. However, I do not think we have to do it right this moment while we are still trying to crawl out of an economic hole. But we need to do that.

We also need some additional revenue. I would say to some of my friends here in the Senate who continue to vote against commonsense proposals to get the revenue we need: Help us. When we see U.S. companies that want all the benefits America has to offer them so they can run their income through the Cayman Islands and avoid paying taxes to this government, help us recover those funds.

I have shown the photograph on the floor of the Senate about the Ugland House. I am guessing I have shown it at least a dozen times. When I first showed the picture of this white house in the Grand Cayman Islands on Church Street, a four-story little house, I said it is home to 12,748 corporations. Oh, they are not all there. It is just a lawyer who created a legal address for them at the Ugland House so they can avoid paying taxes.

When I first talked about that, it was 12,748 corporations. I am told now there are 18,857 entities that call that white stucco house in the Grand Cayman Islands home. Many of these companies have set up mailboxes in a tax haven country to avoid paying their fair share of taxes.

What about a bank such as Wachovia Bank that buys a sewer system in Germany from a German city? Is it because a bank in America should own a sewer system that they could pick up and bring back home? It is a complex sale-leaseback transaction in which an American bank buys a German city's sewer system, leases it back, and then they get to depreciate it on their American income taxes and save a couple of hundred million dollars in U.S. income taxes. The Wachovia Bank did that.

I have spoken of other corporations that have done exactly the same thing. We are going to have to cut spending, but we are going to have to increase some revenue. How about some help from all of our colleagues who say that sort of thing should stop. If you want everything that America has to offer you, how about paying your fair share of taxes? Most people do. They do not have a choice. They get a W-2, a W-4 form, get a wage, work hard and are exhausted at the end of the day. They have got a job. By the way, in April of each year, they understand they owe something. Yes, to build roads, to build schools, provide for defense, to make sure there are police on the beat, firefighters spending the night in a fire house. They owe something because the cost of government requires all of us to pay something. But some are paying nothing and some of them are the largest enterprises in the country, finding ways to slip through the cracks.

So we need to do a lot of things to fix these Federal budget deficits, a lot of things. It is going to require some courage and we need to start relatively soon.

I wanted to quote Franklin Delano Roosevelt in one of his fireside chats, because there is such a description sometimes of selfishness in our country today, only by some, not the majority. But here is what Franklin Delano Roosevelt said about our country during war:

He said:

Not all of us can have the privilege of fighting our enemies in distant parts of the world. Not all of us can have the privilege of working in a munitions factory or a ship yard, or on the farms or in the oil fields or mines, producing weapons or raw materials that are needed by our armed forces. But there is one front and one battle where everyone in the United States—every man, woman, and child—is in action. . . . That front is here at home, in our daily lives, and in our daily tasks. Here at home everyone will have the privilege of making whatever self-denial is necessary, not only to supply our fighting men [or women], but to keep the economic structure of our country fortified and secure . . .

He is talking about common purpose, the need for our country to come to-

gether, to work together. Our history is a long history of supporting the men and women who wear a military uniform. When the Civil War erupted, Congress passed the Revenue Act of 1861 to try to raise money for soldiers. The War Revenue Act of 1899 raised funds to pay for the Spanish-American War. The entry into World War I increased the need for revenue, and Congress responded by raising the funds for that war. Even before the United States entered the Second World War, defense spending and the need for money to support the allies led to passage of two tax laws in 1940. In the Vietnam war, there was a surcharge to help pay for it.

I don't come suggesting there is a great appetite to raise revenues. I understand that. I am saying those who come and talk about fiscal policy being a very serious problem are absolutely right. It is one of the most significant problems we face. We are on an unsustainable course. The President knows that. So does the Congress. The President has told me, as he said today in the Wall Street Journal, that he takes this seriously, and it will be at the top of his agenda as we turn this calendar year. I take him at his word. I believe he means that and knows that because we have talked about it. We are going to need help to try to fix this fiscal policy. We cannot continue to see increasing deficits far out into the future. It will weaken the country. Ultimately, it will cause a run on the dollar, with unbelievable consequences for the economy.

This is not rocket science. We understand the consequences of these issues. You go to war and you provide tax cuts for the wealthiest citizens? I don't think so. That doesn't make any sense. Ultimately, you will pay for that with consequences, and we have begun to see it. What I want for our country is to address these issues.

A couple issues that are significant are Social Security and Medicare. We can deal with those issues. We can deal with success. Why does Social Security and Medicare cost us more? It is called success. People are living longer and better lives so it costs us more in Social Security and Medicare. But a country that can't handle success is a country that can't handle difficult problems, let alone the easy ones. I believe we can do that. I believe we can address the big issues of Social Security and Medicare in a thoughtful way. Then we can also decide that budget deficits such as these are unsustainable and have to be dealt with. This is the President's priority. It is our priority. It ought to be a Republican priority and a Democratic priority. Instead of pointing fingers at each other, let's decide to link arms and see if we can find a way to bring fiscal policy under some control.

First and foremost, let's lift the economy out of this hole. I believe we are beginning to see progress there. This was not some natural disaster.

This was not a hurricane or tornado or flood that visited America. This was a very serious problem at a time in which regulators did not regulate. They decided not to watch. This country was stolen blind by a bunch of folks who made a lot of money doing it. Now we have to begin to repair and pick up the pieces. That requires financial reform in order to restore confidence in the economy going forward. It also requires, in this Chamber, a fiscal policy that relates to fiscal discipline, to say: We understand we have to deal with spending, and there are some areas where spending is out of control. We have to deal with revenues. There are some areas where additional revenues are needed and some areas where most of the American people pay up while others get by time after time, deciding to have all the benefits America is willing to offer but to pay none of the requirements to be an American citizen. Part of those requirements is for that which we do together to build a great country.

We had a discussion with Warren Buffett some while ago. I have known Warren Buffett for a long while. He is a very wealthy man. I have great admiration for him. He is the first or second most richest man in the world. He has no pretenses at all. He doesn't look like it. One of the most interesting things he did was take a survey in his office with 40 employees. Voluntarily, his employees described for him what they paid in income taxes and payroll taxes. The combined tax burden of all the employees in the office showed he actually paid the lowest percentage. The world's richest man paid the lowest percentage. His income all came from capital gains, which pays the lowest rate of 15 percent. I believe he said his receptionist pays a higher rate than he does. He said to us: That is wrong. You all ought to fix it.

Good for him. He is a role model in many ways for being able to speak up on these issues. But one of the things he was asked was: What do you think will happen to the economy in the next 6 months? His response was interesting. He said: I don't have the foggiest idea. I don't know what is going to happen in the next 6 months. I don't know what is going to happen in the next 16 months. But I know what is going to happen 6 years from now. Within the next 6 years, you will have an America that is growing and vibrant and healthy, expanding jobs, lifting the middle class. Why do I know that? Because that is what America does. It has always done that. It has created incentives for the hard-working nature of the American people.

Yes, we go through difficult times and troughs and trouble, but this country always picks itself up. I am convinced, while I don't know what is going to go on 6 months from now, I am absolutely convinced that 6 years from now this country will be right back on track and doing just fine, probably well before that.

I have his same faith in the future. I am convinced there isn't anything we can't do. In terms of inventing, we don't have to invent something to find a way to fix what I have described, a fiscal policy that needs fixing. We can do that. That only requires common sense.

The next time one of my colleagues comes out and says: We are in a deep economic hole, and we have all these deficit issues, we would like to point to a President who has been in office less than 10 months as the root cause of the problem, the fact is, this President knows there is a fiscal policy problem. But this problem has been building for a long time. The bubbling up of this fiscal policy dilemma has been with us a long time, and some of the same people who come to point their fingers have a significant hand in creating it.

I will talk about Afghanistan in the next day or two. But those who come to the floor and say: Let's send 40,000 more troops to Afghanistan, set aside for a moment the merits of that. I am not talking about the merits. But let me say, we are told that sending 1,000 troops abroad for a year costs \$1 billion. So the proposition is, if you are coming to say that, you are saying: Let's spend another \$40 billion in the coming year. I ask those who do that to tell us how we will spend the \$40 billion and how they propose we raise the funding. Because I think it is time, long past time that we decide to fund some of these things. Sending soldiers into the winds of war and deciding we are going to put whatever it costs on top of the deficit is hardly a courageous act.

This country deserves better from all of us, from me, from the President, from both sides in this Congress. All of us have to work together to put this back on track. I am convinced we will. I am convinced we will, in part, with the leadership of this President and, in part, because there are a lot of people of good will in this Congress who understand that this is a serious problem and we need to fix it.

I yield the floor.

The PRESIDING OFFICER (Mr. TESTER). The majority whip.

UNEMPLOYMENT BENEFITS EXTENSION

Mr. DURBIN. Mr. President, another day has passed in the Senate and another opportunity has been wasted to extend unemployment insurance benefits across America. Let's make the record clear. The Democrats have asked the Republicans to move to this item of business and to pass the extension of unemployment insurance benefits to the hundreds of thousands of Americans out of work. They have refused time and time again. They have had a long series of reasons, none of them valid from my point of view. Many of them think they want to argue a lot of other issues. They want to argue the issue of immigration.

They want to argue issues totally unrelated to unemployment. They don't seem to understand there are real people out there calling my office every day—and most Senators—explaining they are out of work and desperate.

Let me read an e-mail I received recently from one of my constituents in Gurnee, IL:

Dear Sir: I have worked my entire life from the age of 12 to 56 years old. I have never seen it this bad. Even during the Reagan recession, you could find something. All the emergency unemployment has expired. All everyone can talk about is health care. I realize it's important but I refuse to believe no one notices when we run out of help. When AIG and the banks needed money, the Congress was pretty quick to respond, and generous. So much so that the TARP fund still has more than enough money to do the job. But when it comes to the common man, we get help one piece at a time. Unemployment compensation is not welfare. We are working people. We are not invisible. But by the attention we get, that's how I feel. I know you're a busy man, but if you can, please say something about helping the unemployed. Emergency funding expired 2 weeks ago. We need help yesterday.

A lot of letters come into our office this way, e-mails. People are desperate. Last Friday, when I was in Chicago, I sat down with a group of about 20 unemployed people and let them tell their stories—invited the press in to let them hear the stories. Many people have a mistaken notion of who the unemployed are. Some Republicans argue they are folks who are not trying hard enough to find a job. Some argue that life on unemployment is so nice they don't even try to find other work. I wish a few of those Republican Senators would go home to their States and meet with the unemployed people whose benefits they are denying with this procedural obstacle. They could sit down and learn, as I did, that some of these folks have been working for more than a year to find a job. Republicans might acknowledge there are six people looking for every job out there. They might acknowledge that many of these people have lost their health care and health protection insurance during the period of their unemployment. They might hear some stories of families struggling to get by who have very little money and are exhausting what little savings they have left.

That is the reality of unemployment. Yet when we turn to the Republicans and say: Can we do the ordinary thing we do around here on a bipartisan basis and extend unemployment benefits in what is the worst recession we have faced since America's Great Depression, they say no. No, we don't want to get to that now. Maybe later. We have some other ideas.

For the people who are suffering under unemployment, that is not good enough. Republicans are ignoring the obvious. There are people all across America who are struggling to find work without success.

For example, 400,000 American families have run out of their unemployment insurance benefits already, in-

cluding 20,000 in my State who lost benefits at the end of September. Another 200,000 families across the country could lose their lifeline to unemployment benefits this month if Republicans continue to stall and stop us from extending unemployment insurance.

What are the Republicans waiting for? Mr. President, 1.3 million Americans will lose this temporary assistance by the end of the year if Congress does not pass this simple extension of benefits, and 50,000 of those families are in my home State. The unemployment check certainly doesn't replace the wages people have lost, but it may give them enough to get by.

According to the Center on Budget and Policy Priorities, the Recovery Act's unemployment insurance provisions have kept 800,000 Americans out of poverty so far this year. So if Republicans want to see unemployed people fall into the ranks of poverty, I can tell you what it means. It means that what is available to them is even less. What they will lose will be disastrous for them and their families. They will be the people you will find at the food banks, the soup lines. They will be similar to the one in my hometown heading out for township assistance which is, I am afraid, the bottom of the barrel for most people when you have run out of ideas on how to put some food on the table. That is what is going to happen if we don't extend unemployment insurance benefits.

Never in the history of the Nation's unemployment insurance program have more workers been unemployed for such a long period. Half of all jobless workers can't find a job within 6 months after they started receiving unemployment benefits. That is the highest percentage of prolonged unemployment in the history of the unemployment program. When we come to the floor and ask Republicans to join us in a bipartisan way to extend the safety net to unemployed people and they say no, they have to understand they are causing hardship and suffering for some of the people who are the least fortunate around us today.

The Democratic bill Republicans continue to block, even today, for unemployment insurance benefit extension would extend insurance for an additional 14 weeks for jobless workers in all 50 States, red States, blue States, purple States, Democratic States, Republican States, North, South, East and West, without any preference. If there are unemployed people, they would get the benefit. There is an additional 6 weeks of insurance for jobless workers in States with unemployment above 8.5 percent, which, unfortunately, today includes my State.

It is time to act. Are we going to finish this week with the Republicans stopping us from extending unemployment benefits? And if we do, how would we explain this to this man who wrote me and asked me about whether I know that unemployment compensation is